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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 426th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 11 May 2000, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.426/Add.1.

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Third periodic report of the Netherlands (CAT/C/44/Add.8 and HRI/CORE/1/Add.66: European part of the Kingdom; CAT/C/44/Add.4 and HRI/CORE/1/Add.67 and Add.68: Netherlands Antilles and Aruba)

1. Mr. Dumoré, Mr. Böcker, Mr. Henk-Cor van der Kwast, Mr. Struyker-Boudier, Mr. Niehoff, Mr. de Boer, Mr. van Daal, Ms. Martijn, Ms. de Bode-Olton and Ms. de Roos-Schoenmakers (Netherlands) took places at the Committee table.

2. The CHAIRMAN welcomed the delegation of the Netherlands and invited it to introduce the report dealing with the European part of the Kingdom (CAT/C/44/Add.8). The report dealing with the Netherlands Antilles and Aruba would be considered later.

3. Mr. DUMORÉ (Netherlands) said that the large delegation reflected the importance that the Government attached to compliance with its obligations under the Convention in a country composed of three separate entities. The Netherlands Government reiterated its full commitment to the fight against torture and all other inhuman or degrading treatment and its resolve to maintain the highest possible standards of human rights protection, especially for the more vulnerable members of society. Internationally, the Netherlands Government had always strongly supported the work of those who exposed acts of torture by Governments and had always spoken out against them itself. It supported the work of the Special Rapporteur on torture and was still the largest contributor to the United Nations Voluntary Fund for Victims of Torture. It applauded the Committee's work and advocated closer contacts between the Committee and the Special Rapporteur on torture. It was furthermore willing to enter into negotiations on an optional protocol to the Convention with a view to establishing a preventive system of visits to places of detention. The adoption of the Statute of the International Criminal Court had been welcomed in the Netherlands, which was to host the Court.

4. With regard to the implementation of article 3 of the Convention, the Committee against Torture had received and considered five communications from individuals under article 22 of the Convention during the period 1994-1998. The authors of the communications had all alleged violations of article 3 of the Convention by the Netherlands; an expulsion order having been issued against them, they had all claimed that they would run the risk of being tortured if returned to their countries. The Committee had declared one communication inadmissible. It had declared two others admissible and requested the Government to take interim measures under rule 108 of its rules of procedure, a request that the Government had honoured. On considering the merits, the Committee had found that there had been no violation of article 3. In one case only, the Committee had, in November 1998, found a potential violation of the Convention and the Government, acting on its views, had refrained from expelling the author, whose expulsion had in any case been postponed pursuant to rule 108 of the rules of procedure. In one final case that had attracted considerable press coverage and had led to a discussion in Parliament, the Netherlands Government had not responded favourably to the Committee's

request for interim measures pursuant to rule 108 and had decided to proceed with the expulsion of the author because of the finding, on judicial review, that his application for refugee status had been manifestly unfounded. While reiterating its policy of acceding, in principle, to the Committee's requests to suspend expulsion, the Netherlands Government nevertheless considered that, in the case in question, it was important to exercise effective control of the external borders of the countries that had signed the Schengen Agreement. It should be noted, however, that the author of the communication was still in the country and his whereabouts were unknown, a fact that had prompted the Committee to discontinue its consideration of the communication. The Netherlands was also a party to the European Convention on Human Rights and the European Court of Human Rights had thus far found no violation by the Netherlands of article 3 of that Convention. It followed that there was a clear need for the two petition mechanisms - the international body and the European body - to reach some measure of agreement on their interpretation of the rules, since it was essential for asylum-seekers and European Governments to know the exact limits of the protection provided by international law. But the case law of the two mechanisms differed in terms of the extent to which the burden of proof lay with the State party.

5. With regard to the application of article 7, he reminded the Committee that, during its consideration of the preceding report (CAT/C/25/Add.1), the Netherlands delegation had asked for its opinion on the implementation of the Convention in a case where a foreign national, who had enjoyed immunity from prosecution in his own country although he could have been held responsible for acts of torture, had visited the Netherlands. It was interesting to note that the international political and legal situation had taken a turn for the better in the meantime and that the same individual, although he had eventually been sent home after being held for a long period in the United Kingdom, would no longer be immune from prosecution under international human rights law. As far as the prosecution of alleged torturers was concerned, a special team for the identification and prosecution of war criminals had been active in the Netherlands since 1999. Composed of a public prosecutor, eight detectives and support staff, the team investigated war crimes, which could consist of acts of torture as defined by the Convention. The public prosecutor on the team was a member of the delegation and would reply to any questions on the prosecution of acts of torture that the Committee wished to raise. Article 1 F of the Convention relating to the Status of Refugees was particularly important for the role of the public prosecutor, since it stipulated that the provisions of the Convention relating to the Status of Refugees would not apply to any person with respect to whom there were serious reasons for considering that he had committed a crime against peace or a crime against humanity. That meant, in practice, that the persons to whom the article applied could be refused asylum. Responsibility for the application of article 1 F was assigned to a unit of the Immigration and Naturalization Service, whose specialized staff received ample training in fields such as humanitarian law. An important question in that regard related to the consequences of the application of article 1 F for the persons concerned, since the Netherlands was bound, by virtue of the principle aut dedere aut judicare, either to extradite or to prosecute. The public prosecutor was informed of all cases to which article 1 F was applicable and it was left to his or her discretion whether or not to prosecute persons covered by article 1 F in the light of the files submitted by the Immigration and Naturalization Service. The Netherlands delegation would gladly answer any questions that the members of the Committee wished to raise.

6. The CHAIRMAN thanked the Netherlands delegation and invited the Committee to ask for information on the implementation of the Convention in the European part of the Kingdom of the Netherlands.

7. Mr. YU Mengjia (Country Rapporteur) noted that there was a wide range of information in the two reports on the three parts of the Kingdom of the Netherlands (CAT/C/44/Add.8 and CAT/C/44/Add.4), supplemented by core documents (HRI/CORE/1/Add.66, 67 and 68) and a very interesting oral introduction. The report as a whole provided a clear account of new developments since the submission of the preceding report on the implementation of articles 3, 6, 7, 10 and 14 of the Convention and was in conformity with the Committee's guidelines concerning the form and content of reports.

8. The first question that arose in connection with all reports was whether the Convention had been fully incorporated into domestic law. According to paragraph 247 of the core document concerning the European part of the Netherlands (HRI/CORE/1/Add.66), where international law offered greater protection than national law, it took precedence, and vice versa. Paragraph 248 of the same document stated that legislation was applied in a manner that accorded with international human rights instruments, but paragraph 251 stated that, pursuant to article 120 of the Constitution, it was the legislature and not the courts that had decision-making power where the constitutionality of a law was in doubt. He would welcome a detailed clarification of that provision.

9. With regard to articles 3, 6 and 7 of the Convention, the procedures for requesting asylum and refugee status as well as the expulsion procedure had been described in detail. The Committee had, however, received information that, following amendments to the Aliens Act, any application for asylum submitted by a person who was unable to produce official identification documents could be turned down. He invited the delegation to clarify that point.

10. The Committee naturally welcomed the establishment of a special national team to seek out war criminals and the introduction of training courses for Immigration and Naturalization Service officials, who were given instructions about appropriate behaviour towards traumatized victims. However, as training covered a wide range of activities, it would be useful to have information on types of training other than instructions for dealing with traumatized persons and especially on gender-specific programmes.

11. Lastly, with regard to ill-treatment, he had been interested to learn that some methods of restraint during detention had been prohibited, particularly the use of adhesive tape to prevent persons who were being expelled from crying out. In addition, the Committee had received allegations of police brutality and would welcome the delegation's comments on police violence during demonstrations in connection with a Council of Europe meeting in 1997 and on a large-scale police operation conducted in November 1999 in Rotterdam, during which a large number of demonstrators had been subjected to illegal body searches.

12. Ms. GAER (Alternate Country Rapporteur) thanked the Netherlands delegation for its oral introduction, which usefully supplemented the highly informative reports. When the previous report had been reviewed, the Committee had asked whether proceedings had been instituted against General Pinochet, who had paid a private visit to the Netherlands, in

connection with the torture for which he had been responsible in Chile. Many events involving the former Chilean dictator had occurred in the meantime, but it would be interesting to hear whether any proceedings and investigations had been initiated in practice. The Committee had also asked whether torture victims were compensated. Although information on that subject was given in paragraphs 41 to 47 of the report, the figures were not broken down by category of violation and it was difficult to form an idea of the number of cases in which compensation was awarded specifically to victims of torture.

13. With regard to the implementation of article 11 of the Convention, she had read with interest, in paragraph 31 of the report, the findings of the European Committee for the Prevention of Torture, which had visited the Netherlands in November 1997, and had been pleased to learn that the regional police forces had set up independent committees to monitor conditions in police cells and that all police forces were under a statutory obligation to set up a supervisory committee of that kind. She inquired about the composition of the supervisory committees and asked to which body they reported their findings.

14. As to article 13 of the Convention, she understood that measures had been taken to prevent a recurrence of the police brutality that had marred the European Summit in June 1997 and noted with interest (para. 33 of the report) that the National Ombudsman could assess the legitimacy of decisions taken by the police in particular cases. Another very welcome development was that steps had been taken to facilitate the filing of complaints and, as stated in paragraph 36, special efforts had been made to deploy women police officers for body searches of women. On the last point, she wished to know whether the use of women police officers was the general rule.

15. Although conditions in prisons had improved, the very harsh regime in high-security facilities and inter-prisoner violence remained subjects of concern. The Committee had been informed of a case in which a prisoner had died following a fight in circumstances that were somewhat surprising, since four of five wardens had reportedly stood idly by during the fight, having been instructed to refrain from intervening between prisoners because it could prove dangerous. She would appreciate any clarification that could be provided.

16. Mr. YAKOVLEV thanked the Netherlands delegation for its oral introduction. Having taken note of the report under consideration and the second periodic report (CAT/C/25/Add.1), he requested further details about the Act implementing the Convention mentioned in paragraphs 24 and 25 of the second periodic report. It was unusual for States to enact a law of that kind and he wished to know what place it occupied in the State party's criminal legislation. For example, could it be invoked directly in proceedings for abuse of official authority or an act of torture?

17. The CHAIRMAN said that he would analyse the difference of opinion between the State party and the Committee about the implementation of rule 108, paragraph 9, of the rules of procedure, pursuant to which the Committee requested States parties to stay expulsion in cases where it was considering a communication whose author was in danger of being subjected to torture if returned to his or her country. The disagreement was all the more regrettable in view of the fact that the Committee, and he himself personally, acknowledged the commitment of the Netherlands to the ideals and the terms of the Convention. Of course, the countries in the

world that received the most applications for asylum were those that defended the aims of the Convention and the Netherlands was one of them. Persons applying for refugee status would inevitably have their requests turned down and would have recourse to every remedy available, whether domestic or international, to have that decision reversed. But it was evident from article 3 of the Convention and rule 108 of the rules of procedure, which regulated its application, that no analogy could be drawn between the human rights procedure established by the United Nations and domestic procedures, whether in a civil-law or a common-law country. If the domestic bodies in a State party that were responsible for ruling on the admissibility of an application for asylum determined that the application was "manifestly unfounded", the procedure ended there because of what would, in the Committee's procedure, constitute an "abuse of the right of submission" of a communication. That kind of abuse was covered by article 22, paragraph 2, of the Convention, which specified as grounds of inadmissibility of a communication, inter alia, anonymity or an application that the Committee considered "to be an abuse of the right of submission" of communications. That was where the views of the State party and the Committee diverged. When the State party considered that an application was "manifestly unfounded", it simply turned it down. The Committee, on the other hand, very seldom found, at the stage of admissibility of the communication, i.e. at the point when it considered the formal requirements, that an application constituted an abuse of the right of submission of communications. The Committee appointed a rapporteur to examine the whole file and it was extremely unusual for that in-depth examination of the evidence to lead to a finding that the allegation was totally unfounded. In the case of torture and ill-treatment, the Committee could not afford to take the slightest risk: if, as in almost all cases, the communication contained some facts that warranted consideration of the case on the merits, the Rapporteur would, as he was required to do, request the State party to take the interim measures provided for in rule 108 of the rules of procedure, which invariably, in the case of article 3, involved a stay of execution of the decision to expel. It would be completely illogical and irrational to proceed otherwise. Expressing the hope that he had convinced the Netherlands delegation, he invited the representatives of the Netherlands Antilles to introduce the report on that part of the Netherlands.

18. Mrs. de BODE-OLTON (Netherlands Antilles) said that the Antillean Government was committed to using every means to safeguard the basic rights and freedoms of all individuals in general and the rights of persons in custody in particular. Acts of torture under article 1 of the Convention were now explicitly defined as a separate offence in national legislation; attempted torture was also qualified as an offence. In recent years, additional efforts had been made to correct unfavourable conditions of detention in Curaçao prison. Despite the improvements made, the situation in Koraal Specht correctional facility continued to be a matter of concern and to be discussed not only by the Government, but also by external authorities. Since 1994, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had visited the Netherlands Antilles twice and had expressed concern about overcrowding, general conditions of detention and the problem of violence between prisoners in Koraal Specht prison. In October 1998, the Minister of Justice had held a meeting with the President of the European Committee, who had wanted to review the implementation of measures in Koraal Specht prison in the light of earlier recommendations by the Committee and to establish a clear timetable with the Government for the adoption of other required measures. The recommendations had related to conditions of detention and operations and had led to some radical changes. Following a decision by the Council of Ministers in 1998, the Government had

begun the process of reorganizing the structure of correctional facilities in order to guarantee inmates and prison officials more security. The reorganization was also designed to strengthen the legal infrastructure in order to ensure the effectiveness of the measures planned. As part of that strategy, the Government had concluded two agreements with private enterprises, one on construction and the other on the repair and maintenance of a new correctional facility, which should help to solve the prison overcrowding problem and improve inmates' conditions. As a result of other measures, 50 non-Dutch prisoners had been released after having served most of their sentences. Under a bilateral agreement concluded with a neighbouring country, prisoners could serve their sentences in their country of origin. In addition, the capacity of the semi-open prison regime had been strengthened, thereby reducing overcrowding by 20 per cent. Measures had been taken to combat staff absenteeism and to set up a social and medical team to monitor individual cases. The role of the Director of Koraal Specht prison had also been clarified and strengthened. There was now one Director-General responsible for prison administration as a whole and each facility had its own warden. The necessary legislation to give effect to the new provisions of the Prison System Ordinance had entered into force and the legal infrastructure of the prison system of the Netherlands Antilles was now fully in conformity with the human rights and fundamental freedoms provided for in the main international human rights instruments. Mention should also be made of the prison supervisory system which had been established in accordance with that legislation and was operated by a supervisory committee in charge of receiving inmates' complaints. It had been decided to appoint a coordinator and a support team to monitor activities organized for the benefit of prisoners. Additional prison staff had been recruited, health care had been reorganized and the nursing staff had been increased. The Government was considering the possibility of establishing the prison's own "mobile intervention unit" in order to replace the police mobile intervention unit. A special service had been set up to centralize the registration and follow-up of complaints by prisoners. A commission had been established to conduct a general inquiry into the integrity of the police forces. It had opened several telephone lines to enable the population to report crimes and other police conduct contrary to standards of integrity. As a consequence, a murder and other crimes in which police officers had allegedly taken part had been revealed and the persons responsible had been arrested and were awaiting trial. The National Institute for Police Training had been established in October 1999 to train all uniformed personnel working within the judicial system. It also trained prison officials.

19. Since her delegation could not focus on all areas in which interesting developments had taken place, it looked forward to answering the questions of the members of the Committee and would welcome their recommendations.

20. Mr. YU Mengjia (Country Rapporteur) noted with satisfaction that the Government of the Netherlands Antilles had taken many measures to improve the infrastructure of the country's prison system and to give effect to the recommendations made by the Committee against Torture and by the European Committee for the Prevention of Torture. He also welcomed the entry into force on 1 October 1997 of the Revised Code of Criminal Procedure. He nevertheless regretted the fact that allegations continued to be made about poor prison conditions, prison overcrowding and frequent outbreaks of violence in prison, including the August 1997 rioting referred to in paragraph 27 of the report. He noted that, in 1994, the Minister of Justice had decided to establish a commission to consider complaints of brutality and that a law establishing and containing the regulations relating to the National Investigation Department had been adopted

in May 1994. That commission had been operating since 1997 as an independent investigatory body. In 1995, the Government of the Netherlands Antilles had decided to punish torture as a separate crime rather than as the crime of assault and serious violence. Various measures had been taken to improve the training of prison staff in cooperation with NGOs, but those measures were still very limited because of the lack of resources. The Committee would like to know the implications of the statement in paragraph 40 of the report that "The mere fact that torture is a very serious offence which arouses widespread indignation and concern is not in itself a sufficient justification for application of the principle of universality".

21. Ms. GAER (Alternate Country Rapporteur), referring to article 11 of the Convention, said that she would like further information on the functioning of the independent board of visitors for prisons and remand centres and on how visits took place, how many there were and what deterrent effect they had.

22. With regard to articles 12 and 13 of the Convention, it would be interesting to know what measures the Government had taken to facilitate the procedure by which prisoners could file complaints. Although the Government was making efforts to comply with the recommendations of the Committee against Torture and the European Committee for the Prevention of Torture, there was still a great deal to be done. She welcomed the appointment of a director-general of prison administration and asked about the criteria for his appointment and whether he made visits to prisons. It would also be useful to have information on how prisoners were separated, as well as further information on sexual violence in prisons, the measures taken to deal with that problem and the confidential nature of the measures. She requested data on the prison population disaggregated by sex, race and ethnic group and according to the proportion of foreigners. In addition, she wished to know whether it was true, as indicated in the report of the European Committee for the Prevention of Torture, that electric batons were used in prisons.

23. The CHAIRMAN invited the members of the Committee to ask questions of the delegation of the Netherlands Antilles.

24. Mr. EL MASRY said that he would like further information on the referendum organized in the Netherlands Antilles, as referred to in paragraph 13 of the core document (HRI/CORE/1/Add.67), the date of the referendum, the results and possible participation by the United Nations. He asked whether the referendum had been based on the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV)).

25. Mr. RASMUSSEN said that, during his visit to the Netherlands Antilles in 1997, the European Committee for the Prevention of Torture had received many complaints about the mobile intervention unit, which allegedly carried out frequent raids in prisons and treated prisoners very brutally. In the State party's oral introduction, it had been indicated that the authorities intended to deploy such a unit in each prison at all times. In relations between prison guards and prisoners, there was no room for such a unit. What comment could the State party make in that regard? Inter-prisoner violence was another matter of concern. In the part of the report on the Netherlands Antilles, it was indicated that incidents of that kind were rare, whereas the conclusions of the European Committee for the Prevention of Torture following its visit to the region in 1997 referred to serious cases of inter-prisoner violence, including 13 in the month

preceding the Committee's visit. Information and detailed statistics on those incidents would be welcome. The European Committee for the Prevention of Torture had also referred to the use, in a police station in Rio Canario, of an electric baton that could discharge 150,000 volts. The woman prisoner who had informed the Committee still bore the scars and, fearing that any action she might take would be prejudicial to her during her trial, she had decided not to file a complaint and the prosecutor's office had therefore decided not to conduct an investigation. However, the Curaçao Chief of Police had issued an order expressly prohibiting the use of electric batons. In view of the seriousness of the case, it could well be asked why the authorities had not conducted an investigation. Could the State party give assurances that electric batons were no longer used in places where prisoners were interrogated?

26. The 1994 report by the European Committee for the Prevention of Torture referred to many complaints of police brutality. Statistics on those complaints would be welcome. It would also be interesting to know the results of the proceedings that had been instituted. In its oral introduction, the State party had said that Koraal Specht prison was to become private. The Committee would like to be assured that the persons being detained in that prison would continue to be the responsibility of the State.

27. The CHAIRMAN said that he would like to be sure that, even if prisons were privatized, the State party would continue to fulfil all its obligations under the provisions of the Convention.

28. Mr. DUMORÉ (Netherlands), introducing the part of the report of the Kingdom of the Netherlands dealing with Aruba, said that it had been prepared by the Aruba Intergovernmental Human Rights Committee in accordance with the guidelines adopted by the Committee against Torture. A law implementing the Convention, defining torture as a separate criminal offence corresponding to the definition contained in article 1 of the Convention and providing for universal jurisdiction had entered into force on 22 June 1999. A new Code of Criminal Procedure for Aruba and the Netherlands Antilles had entered into force on 1 October 1997. It had repealed several outdated regulations on the execution of sentences and had greatly improved the rights of suspects, guaranteeing them the assistance of a lawyer from the moment of initial contact with the criminal justice authorities. That provided a strong safeguard against any arbitrary measure. The new Code had also made the application of constraints against a suspect in the course of a criminal proceeding the subject of precise rules. Henceforth, any person who had been subjected to the unlawful application of pre-trial constraints could claim compensation.

29. He informed the Committee that plans had been drawn up for the extension of the Aruba Penitentiary (KIA) in September 1998. They were designed to solve the problem of overcrowding and to remove structural defects in order to improve safety. The Government was now looking into ways to finance them.

30. In reply to the concerns expressed by the Committee during the consideration of the second periodic report of the Netherlands, the authorities of Aruba drew attention to the new regime for the maximum length of pre-trial detention applicable under the new Code of Criminal Procedure. Copies of the text describing the regime were available to the members of the Committee. The 10-day period during which a person could be held in police custody had not been shortened, but a suspect now had the right to be brought before a judge within three days of

his arrest. If the suspect was remanded in custody, the lawfulness of his detention was regularly checked. Since the Code did not prevent the question of practices contrary to the Convention from being raised during the hearing, detention was judicially supervised both in police cells and in a remand centre. The Prosecution Department's policy was, moreover, to reduce the length of pre-trial detention and to replace short custodial sentences by community service.

31. In conclusion, the Government of Aruba informed the Committee that it was not aware of any allegations of ill-treatment or torture either from persons in police custody or from persons in prison. It would continue to adopt all the necessary measures to guarantee the basic rights of every citizen, as provided for in the Constitution and in several human rights instruments in force for Aruba.

32. Mr. YU Mengjia (Country Rapporteur) said that the oral introduction on behalf of the delegation of Aruba had answered some of the questions he had wanted to ask. The new Code of Criminal Procedure which had entered into force on 1 October 1997 was a very important landmark in the Aruban system of law. The report showed that the Government of Aruba was aware that its legislation on the punishment of torture was inadequate. The Committee had already drawn attention to that shortcoming in its concluding observations and recommendations on the preceding report of the Kingdom of the Netherlands. In that connection, paragraph 68 of the report stated that a bill to implement the Convention was now being debated in the Aruban Parliament. It was therefore to be hoped that the process of incorporating the provisions of the Convention into internal law would be speeded up.

33. Paragraph 75 of the report drew attention to a bill to modernize detention law which was to be submitted shortly to the Aruban Parliament. The text did not expressly prohibit torture, which was defined in the report as a criminal offence under the general provisions on torture contained in the bill to implement the Convention. He was not convinced that that approach, which implied that the Government of Aruba considered it superfluous to incorporate an explicit ban on torture in the bill, was appropriate.

34. During the consideration of the part of the preceding report of the Kingdom of the Netherlands dealing with Aruba, the Committee had deplored prison conditions. Information on developments in the situation since then would be welcome.

35. With regard to the criminal responsibility of persons who committed acts of torture, the articles of the Code of Criminal Procedure of Aruba referred to in paragraph 86 of the report were obviously contrary to the Convention and were therefore a matter of concern. According to those articles, a person who committed a criminal offence while obeying orders given by a competent authority was not punishable. In addition, paragraphs 86 and 87 of the report contradicted one another. Explanations in that regard would be welcome. The words "such acts shall, if they are achieving their intended aim, be construed as torture and carry a term of imprisonment not exceeding 15 years" at the end of article 1, paragraph 1, of the National Ordinance on the Convention against Torture (annex to the report, p. 48) appeared to be in conflict with the Convention. It would be interesting to know the Aruban authorities' opinion.

36. Ms. GAER (Alternate Country Rapporteur) said she regretted that the State party had not provided enough statistics in its oral introduction. She would, for example, like information on

the sex, ethnic origin and nationality of the persons detained in Aruba Penitentiary (KIA) or in police custody. According to the report, broad guarantees protected prisoners against possible abuses by prison staff and no allegation of brutality had been received. It would be interesting to know how that system of guarantees operated and whether prisoners were sufficiently aware of the rights it gave them.

37. Paragraph 163 indicated that every police officer who employed force in the course of his duties must immediately report to his superior or department head, who must then inform the public prosecutor. That system seemed very good in theory, but what happened in practice? She would particularly like details about the reports, if any, which had already been submitted to the public prosecutor and explanations about the results of the procedure.

38. The analysis of the question of the anonymity of witnesses in paragraphs 173 to 185 was extremely interesting, but she would like to know the circumstances in which that practice had been established. Had anonymous statements already been made in Aruba? Was that type of testimony used in other parts of the Kingdom and what was the situation with regard to the rights of the accused?

39. In connection with article 16 of the Convention, the report of the United States Department of State on the Netherlands Antilles and Aruba referred to many cases of police brutality and substandard prison conditions, although commissions had been set up to receive victims' complaints of ill-treatment and programmes had been established to make the members of the police forces aware of their obligations and responsibilities. According to the information provided by the State party, however, the authorities of Aruba had not received any allegation of brutality in places of detention. It was therefore open to question whether the programmes established had been successful. The report also indicated that there was strict supervision in prisons in order to detect possible cases of sexual violence. In that connection as well, it would be interesting to know what guarantees were enjoyed by persons who wanted to file a complaint and whether persons responsible for acts of sexual violence had already been punished.

40. The CHAIRMAN welcomed the legislative initiatives taken by the authorities of Aruba in order to make torture a separate offence corresponding to the definition contained in article 1 of the Convention, even though the terminology used was different and he was not convinced that all elements of the definition had been taken into account. He invited the delegation of the Netherlands to return to reply to the oral questions to be asked by the members of the Committee.

41. The Netherlands delegation withdrew.

The public part of the meeting rose at noon.